



# GENERAL ASSEMBLY

## COMMONWEALTH OF KENTUCKY

### 2012 REGULAR SESSION

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HOUSE BILL NO. 366

AS ENACTED

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FRIDAY, MARCH 30, 2012

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ALISON LUNDERGAN GRIMES  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY Mary Sue Helm

1 AN ACT relating to school employees.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔ Section 1. KRS 160.380 is amended to read as follows:

4 (1) As used in this section:

5 (a) "Contractor" means an adult who is permitted access to school grounds  
6 pursuant to a current or prospective contractual agreement with the school,  
7 school board, school district, or school-affiliated entity, at times when  
8 students are present. The term "contractor" includes an employee of a  
9 contractor;

10 (b) "Relative" means father, mother, brother, sister, husband, wife, son, daughter,  
11 aunt, uncle, son-in-law, and daughter-in-law; and

12 (c) "Vacancy" means any certified position opening created by the resignation,  
13 dismissal, nonrenewal of contract, transfer, or death of a certified staff  
14 member of a local school district, or a new position created in a local school  
15 district for which certification is required. However, if an employer-employee  
16 bargained contract contains procedures for filling certified position openings  
17 created by the resignation, dismissal, nonrenewal of contract, transfer, or death  
18 of a certified staff member, or creation of a new position for which  
19 certification is required, a vacancy shall not exist, unless certified positions  
20 remain open after compliance with those procedures.

21 (2) Except as provided in KRS 160.346:

22 (a) All appointments, promotions, and transfers of principals, supervisors,  
23 teachers, and other public school employees shall be made only by the  
24 superintendent of schools, who shall notify the board of the action taken. All  
25 employees of the local district shall have the qualifications prescribed by law  
26 and by the administrative regulations of the Kentucky Board of Education and  
27 of the employing board. Supervisors, principals, teachers, and other

1 employees may be appointed by the superintendent for any school year at any  
2 time after February 1 preceding the beginning of the school year. No  
3 superintendent of schools shall appoint or transfer himself or herself to  
4 another position within the school district;

5 (b) When a vacancy occurs in a local school district, the superintendent shall  
6 notify the chief state school officer thirty (30) days before the position shall be  
7 filled. The chief state school officer shall keep a registry of local district  
8 vacancies which shall be made available to the public. The local school  
9 district shall post position openings in the local board office for public  
10 viewing;

11 (c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent  
12 disruption of necessary instructional or support services of the school district,  
13 the superintendent may seek a waiver from the chief state school officer. If the  
14 waiver is approved, the appointment shall not be made until the person  
15 recommended for the position has been approved by the chief state school  
16 officer. The chief state school officer shall respond to a district's request for  
17 waiver or for approval of an appointment within two (2) working days;

18 (d) When a vacancy occurs in a local district, the superintendent shall conduct a  
19 search to locate minority teachers to be considered for the position. The  
20 superintendent shall, pursuant to administrative regulations of the Kentucky  
21 Board of Education, report annually the district's recruitment process and the  
22 activities used to increase the percentage of minority teachers in the district;

23 (e) No relative of a superintendent of schools shall be an employee of the school  
24 district. However, this shall not apply to a relative who is a classified or  
25 certified employee of the school district for at least thirty-six (36) months  
26 prior to the superintendent assuming office, or prior to marrying a relative of  
27 the superintendent, and who is qualified for the position the employee holds.

1 A superintendent's spouse who has at least eight (8)~~[twenty (20)]~~ years of  
 2 service in school systems may be an employee of the school district. A  
 3 superintendent's spouse who is employed under this provision shall not hold a  
 4 position in which the spouse supervises certified or classified employees. A  
 5 superintendent's spouse may supervise teacher aides and student teachers.  
 6 However, the superintendent shall not promote a relative who continues  
 7 employment under an exception of this subsection;

8 (f) No superintendent shall employ a relative of a school board member of the  
 9 district, unless on July 13, 1990, the board member's relative is an employee  
 10 of the district, the board member is holding office, and the relative was not  
 11 initially hired by the district during the tenure of the board member. A relative  
 12 employed in 1989-90 and initially hired during the tenure of a board member  
 13 serving on July 13, 1990, may continue to be employed during the remainder  
 14 of the board member's term. However, the superintendent shall not promote  
 15 any relative of a school board member who continues employment under the  
 16 exception of this subsection; and

17 (g) 1. No principal's relative shall be employed in the principal's school, except  
 18 a relative who is not the principal's spouse and who was employed in the  
 19 principal's school during the 1989-90 school year.  
 20 2. No spouse of a principal shall be employed in the principal's school,  
 21 except:  
 22 a. A principal's spouse who was employed in the principal's school  
 23 during the 1989-90 school year for whom there is no position for  
 24 which the spouse is certified to fill in another school operated in  
 25 the district; or  
 26 b. A principal's spouse who was employed in the 1989-90 school year  
 27 and is in a school district containing no more than one (1)

1 elementary school, one (1) middle school, and one (1) high school.

2 3. A principal's spouse who is employed in the principal's school shall be  
3 evaluated by a school administrator other than the principal.

4 4. The provisions of KRS 161.760 shall not apply to any transfer made in  
5 order to comply with the provisions of this paragraph.

6 (3) No superintendent shall employ in any position in the district any person who is a  
7 violent offender or has been convicted of a sex crime as defined by KRS 17.165  
8 which is classified as a felony. The superintendent may employ, at his discretion,  
9 persons convicted of sex crimes classified as a misdemeanor.

10 (4) (a) A superintendent shall require a national and state criminal background check  
11 on all new certified hires in the school district and student teachers assigned  
12 within the district. Excluded are certified individuals who were employed in  
13 another certified position in a Kentucky school district within six (6) months  
14 of the date of hire and who had previously submitted to a national and state  
15 criminal background check for the previous employment.

16 (b) The superintendent shall require that each new certified hire and student  
17 teacher, as set forth in paragraph (a) of this subsection, submit to a national  
18 and state criminal history background check by the Department of Kentucky  
19 State Police and the Federal Bureau of Investigation.

20 (c) All fingerprints requested under this section shall be on an applicant  
21 fingerprint card provided by the Department of Kentucky State Police. The  
22 fingerprint cards shall be forwarded to the Federal Bureau of Investigation  
23 from the Department of Kentucky State Police after a state criminal  
24 background check is conducted. The results of the state and federal criminal  
25 background check shall be sent to the hiring superintendent. Any fee charged  
26 by the Department of Kentucky State Police and the Federal Bureau of  
27 Investigation shall be an amount no greater than the actual cost of processing

1 the request and conducting the search.

2 (d) The Education Professional Standards Board may promulgate administrative  
3 regulations to impose additional qualifications to meet the requirements of  
4 Public Law 92-544.

5 (5) A superintendent shall require a state criminal background check on all classified  
6 initial hires.

7 (a) The superintendent shall require that each classified initial hire submit to a  
8 state criminal history background check by the Department of Kentucky State  
9 Police. If an applicant has been a resident of Kentucky twelve (12) months or  
10 less, the superintendent may require a national criminal history background  
11 check as a condition of employment.

12 (b) Any request for records under this section shall be on an applicant fingerprint  
13 card provided by the Department of Kentucky State Police. The results of the  
14 state criminal background check and the results of the national criminal  
15 history background check, if requested under the provisions of paragraph (a)  
16 of this subsection, shall be sent to the hiring superintendent. Any fee charged  
17 by the Department of Kentucky State Police shall be an amount no greater  
18 than the actual cost of processing the request and conducting the search.

19 (6) The superintendent may require a contractor, volunteer, or visitor to submit to a  
20 national and state criminal history background check by the Department of  
21 Kentucky State Police and the Federal Bureau of Investigation. Any request for  
22 records under this section shall be on an applicant fingerprint card provided by the  
23 Department of Kentucky State Police. The results of the state criminal background  
24 check and the results of the national criminal history background check, if  
25 requested, shall be sent to the hiring superintendent. Any fee charged by the  
26 Department of Kentucky State Police shall be an amount no greater than the actual  
27 cost of processing the request and conducting the search.

- 1 (7) (a) If a school term has begun and a certified or classified position remains  
2 unfilled or if a vacancy occurs during a school term, a superintendent may  
3 employ an individual, who will have supervisory or disciplinary authority over  
4 minors, on probationary status pending receipt of the criminal history  
5 background check. Application for the criminal record of a probationary  
6 employee shall be made no later than the date probationary employment  
7 begins.
- 8 (b) Employment shall be contingent on the receipt of the criminal history  
9 background check documenting that the probationary employee has no record  
10 of a sex crime nor as a violent offender as defined in KRS 17.165.
- 11 (c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary,  
12 probationary employment under this section shall terminate on receipt by the  
13 school district of a criminal history background check documenting a record  
14 of a sex crime or as a violent offender as defined in KRS 17.165 and no  
15 further procedures shall be required.
- 16 (d) The provisions of KRS 161.790 shall apply to terminate employment of a  
17 certified employee on the basis of a criminal record other than a record of a  
18 sex crime or as a violent offender as defined in KRS 17.165.
- 19 (8) (a) Each application or renewal form, provided by the employer to an applicant  
20 for a classified position, shall conspicuously state the following: "FOR THIS  
21 TYPE OF EMPLOYMENT, STATE LAW REQUIRES A STATE  
22 CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF  
23 EMPLOYMENT. UNDER CERTAIN CIRCUMSTANCES, A NATIONAL  
24 CRIMINAL HISTORY BACKGROUND CHECK MAY BE REQUIRED AS  
25 A CONDITION OF EMPLOYMENT."
- 26 (b) Each application or renewal form, provided by the employer to an applicant  
27 for a certified position, shall conspicuously state the following: "FOR THIS

1 TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL AND  
2 STATE CRIMINAL HISTORY BACKGROUND CHECK AS A  
3 CONDITION OF EMPLOYMENT."

4 (c) Each application form for a district position shall require the applicant to:

5 1. Identify the states in which he or she has maintained residency,  
6 including the dates of residency; and

7 2. Provide picture identification.

8 (9) The provisions of subsections (4), (5), (6), (7), and (8) of this section shall apply to  
9 a nonfaculty coach or nonfaculty assistant as defined under KRS 161.185.

10 (10) A school-based decision-making council parent member, as defined under KRS  
11 160.345, shall submit to a state and national fingerprint-supported criminal history  
12 background check by the Department of Kentucky State Police and the Federal  
13 Bureau of Investigation. The results of the state criminal history background check  
14 and the results of the national criminal history background check, if requested, shall  
15 be sent to the district superintendent. Any fee charged by the Department of  
16 Kentucky State Police shall be an amount no greater than the actual cost of  
17 processing the request and conducting the search. A parent member may serve prior  
18 to the receipt of the criminal history background check report but shall be removed  
19 from the council on receipt by the school district of a report documenting a record  
20 of a sex crime or criminal offense against a victim who is a minor as defined in  
21 KRS 17.500 or as a violent offender as defined in KRS 17.165, and no further  
22 procedures shall be required.

23 (11) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary,  
24 when an employee of the school district is charged with any offense which is  
25 classified as a felony, the superintendent may transfer the employee to a second  
26 position until such time as the employee is found not guilty, the charges are  
27 dismissed, the employee is terminated, or the superintendent determines that further



1 personnel action is not required. The employee shall continue to be paid at the same  
 2 rate of pay he or she received prior to the transfer. If an employee is charged with an  
 3 offense outside of the Commonwealth, this provision may also be applied if the  
 4 charge would have been treated as a felony if committed within the Commonwealth.  
 5 Transfers shall be made to prevent disruption of the educational process and district  
 6 operations and in the interest of students and staff and shall not be construed as  
 7 evidence of misconduct.

8 ➔Section 2. KRS 160.345 is amended to read as follows:

9 (1) For the purpose of this section:

10 (a) "Minority" means American Indian; Alaskan native; African-American;  
 11 Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or  
 12 South American origin; Pacific islander; or other ethnic group  
 13 underrepresented in the school;

14 (b) "School" means an elementary or secondary educational institution that is  
 15 under the administrative control of a principal and is not a program or part of  
 16 another school. The term "school" does not include district-operated schools  
 17 that are:

- 18 1. Exclusively vocational-technical, special education, or preschool  
 19 programs;
- 20 2. Instructional programs operated in institutions or schools outside of the  
 21 district; or
- 22 3. Alternative schools designed to provide services to at-risk populations  
 23 with unique needs;

24 (c) "Teacher" means any person for whom certification is required as a basis of  
 25 employment in the public schools of the state, with the exception of principals  
 26 and assistant principals; and

27 (d) "Parent" means:

- 1           1.    A parent, stepparent, or foster parent of a student; or
- 2           2.    A person who has legal custody of a student pursuant to a court order
- 3                and with whom the student resides.
- 4   (2)   Each local board of education shall adopt a policy for implementing school-based
- 5       decision making in the district which shall include, but not be limited to, a
- 6       description of how the district's policies, including those developed pursuant to
- 7       KRS 160.340, have been amended to allow the professional staff members of a
- 8       school to be involved in the decision making process as they work to meet
- 9       educational goals established in KRS 158.645 and 158.6451. The policy may
- 10      include a requirement that each school council make an annual report at a public
- 11      meeting of the board describing the school's progress in meeting the educational
- 12      goals set forth in KRS 158.6451 and district goals established by the board. The
- 13      policy shall also address and comply with the following:
- 14      (a)   Except as provided in paragraph (b)2. of this subsection, each participating
- 15           school shall form a school council composed of two (2) parents, three (3)
- 16           teachers, and the principal or administrator. The membership of the council
- 17           may be increased, but it may only be increased proportionately. A parent
- 18           representative on the council shall not be an employee or a relative of an
- 19           employee of the school in which that parent serves, nor shall the parent
- 20           representative be an employee or a relative of an employee in the district
- 21           administrative offices. A parent representative shall not be a local board
- 22           member or a board member's spouse. None of the members shall have a
- 23           conflict of interest pursuant to KRS Chapter 45A, except the salary paid to
- 24           district employees;
- 25      (b)   1.    The teacher representatives shall be elected for one (1) year terms by a
- 26                majority of the teachers. A teacher elected to a school council shall not
- 27                be involuntarily transferred during his or her term of office. The parent

representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected. The principal shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:

- a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and
- b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty;

- (c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals

1 established by KRS 158.645 and 158.6451. The principal shall be the  
2 primary administrator and the instructional leader of the school, and  
3 with the assistance of the total school staff shall administer the policies  
4 established by the school council and the local board.

5 2. If a school council establishes committees, it shall adopt a policy to  
6 facilitate the participation of interested persons, including, but not  
7 limited to, classified employees and parents. The policy shall include the  
8 number of committees, their jurisdiction, composition, and the process  
9 for membership selection;

10 (d) The school council and each of its committees shall determine the frequency  
11 of and agenda for their meetings. Matters relating to formation of school  
12 councils that are not provided for by this section shall be addressed by local  
13 board policy;

14 (e) The meetings of the school council shall be open to the public and all  
15 interested persons may attend. However, the exceptions to open meetings  
16 provided in KRS 61.810 shall apply;

17 (f) After receiving notification of the funds available for the school from the local  
18 board, the school council shall determine, within the parameters of the total  
19 available funds, the number of persons to be employed in each job  
20 classification at the school. The council may make personnel decisions on  
21 vacancies occurring after the school council is formed but shall not have the  
22 authority to recommend transfers or dismissals;

23 (g) The school council shall determine which textbooks, instructional materials,  
24 and student support services shall be provided in the school. Subject to  
25 available resources, the local board shall allocate an appropriation to each  
26 school that is adequate to meet the school's needs related to instructional  
27 materials and school-based student support services, as determined by the

1 school council. The school council shall consult with the school media  
2 librarian on the maintenance of the school library media center, including the  
3 purchase of instructional materials, information technology, and equipment;

4 (h) Personnel decisions at the school level shall be as follows:

5 1. From a list of qualified applicants submitted by the local superintendent,  
6 the principal at the participating school shall select personnel to fill  
7 vacancies, after consultation with the school council, consistent with  
8 paragraph(i)10. of this subsection. The superintendent shall provide  
9 additional applicants to the principal upon request when qualified  
10 applicants are available. The superintendent may forward to the school  
11 council the names of qualified applicants who have pending certification  
12 from the Education Professional Standards Board based on recent  
13 completion of preparation requirements, out-of-state preparation, or  
14 alternative routes to certification pursuant to KRS 161.028 and 161.048.  
15 Requests for transfer shall conform to any employer-employee bargained  
16 contract which is in effect.

17 2. If the vacancy to be filled is the position of principal, the outgoing  
18 principal shall not serve on the council during the principal selection  
19 process. The superintendent or the superintendent's designee shall serve  
20 as the chair of the council for the purpose of the hiring process and shall  
21 have voting rights during the selection process. The council shall have  
22 access to the applications of all persons certified for the position. The  
23 principal shall be elected on a majority vote of the membership of the  
24 council. No principal who has been previously removed from a position  
25 in the district for cause may be considered for appointment as principal.  
26 The school council shall receive training in recruitment and interviewing  
27 techniques prior to carrying out the process of selecting a principal. The

1 council shall select the trainer to deliver the training.

2 3. Personnel decisions made at the school level under the authority of  
3 subparagraphs 1., 2., and 4. of this paragraph shall be binding on the  
4 superintendent who completes the hiring process.

5 4. If the vacancy for the position of principal occurs in a school that has an  
6 index score that places it in the lowest one-third (1/3) of all schools  
7 below the assistance line and the school has completed a scholastic audit  
8 under KRS 158.6455 that includes findings of lack of effectiveness of  
9 the principal and school council, the superintendent shall appoint the  
10 principal after consulting with the school council.

11 5. Applicants subsequently employed shall provide evidence that they are  
12 certified prior to assuming the duties of a position in accordance with  
13 KRS 161.020;

14 6. Notwithstanding other provisions of this paragraph, if the applicant is  
15 the spouse of the superintendent and the applicant meets the service  
16 requirements of subsection (2)(e) of Section 1 of this Act, the applicant  
17 shall only be employed upon the recommendation of the principal and  
18 the approval of a majority vote of the school council.

19 (i) The school council shall adopt a policy to be implemented by the principal in  
20 the following additional areas:

- 21 1. Determination of curriculum, including needs assessment, curriculum  
22 development and responsibilities under KRS 158.6453(7);
- 23 2. Assignment of all instructional and noninstructional staff time;
- 24 3. Assignment of students to classes and programs within the school;
- 25 4. Determination of the schedule of the school day and week, subject to the  
26 beginning and ending times of the school day and school calendar year  
27 as established by the local board;

- 1           5. Determination of use of school space during the school day;
- 2           6. Planning and resolution of issues regarding instructional practices;
- 3           7. Selection and implementation of discipline and classroom management
- 4             techniques as a part of a comprehensive school safety plan, including
- 5             responsibilities of the student, parent, teacher, counselor, and principal;
- 6           8. Selection of extracurricular programs and determination of policies
- 7             relating to student participation based on academic qualifications and
- 8             attendance requirements, program evaluation, and supervision;
- 9           9. Procedures, consistent with local school board policy, for determining
- 10           alignment with state standards, technology utilization, and program
- 11           appraisal; and
- 12          10. Procedures to assist the council with consultation in the selection of
- 13             personnel by the principal, including, but not limited to, meetings,
- 14             timelines, interviews, review of written applications, and review of
- 15             references. Procedures shall address situations in which members of the
- 16             council are not available for consultation; and
- 17          (j) Each school council shall annually review data as shown on state and local
- 18             student assessments and program assessments required under KRS 158.6453.
- 19             The data shall include but not be limited to information on performance levels
- 20             of all students tested, and information on the performance of students
- 21             disaggregated by race, gender, disability, and participation in the federal free
- 22             and reduced price lunch program. After completing the review of data, each
- 23             school council, with the involvement of parents, faculty, and staff, shall
- 24             develop and adopt a plan to ensure that each student makes progress toward
- 25             meeting the goals set forth in KRS 158.645 and 158.6451(1)(b) by April 1 of
- 26             each year and submit the plan to the superintendent and local board of
- 27             education for review as described in KRS 160.340. The Kentucky Department

1 of Education shall provide each school council the data needed to complete  
2 the review required by this paragraph no later than November 1 of each year.

3 If a school does not have a council, the review shall be completed by the  
4 principal with the involvement of parents, faculty, and staff.

5 (3) The policies adopted by the local board to implement school-based decision making  
6 shall also address the following:

7 (a) School budget and administration, including: discretionary funds; activity and  
8 other school funds; funds for maintenance, supplies, and equipment; and  
9 procedures for authorizing reimbursement for training and other expenses;

10 (b) Assessment of individual student progress, including testing and reporting of  
11 student progress to students, parents, the school district, the community, and  
12 the state;

13 (c) School improvement plans, including the form and function of strategic  
14 planning and its relationship to district planning, as well as the school safety  
15 plan and requests for funding from the Center for School Safety under KRS  
16 158.446;

17 (d) Professional development plans developed pursuant to KRS 156.095;

18 (e) Parent, citizen, and community participation including the relationship of the  
19 council with other groups;

20 (f) Cooperation and collaboration within the district, with other districts, and with  
21 other public and private agencies;

22 (g) Requirements for waiver of district policies;

23 (h) Requirements for record keeping by the school council; and

24 (i) A process for appealing a decision made by a school council.

25 (4) In addition to the authority granted to the school council in this section, the local  
26 board may grant to the school council any other authority permitted by law. The  
27 board shall make available liability insurance coverage for the protection of all



1 members of the school council from liability arising in the course of pursuing their  
2 duties as members of the council.

3 (5) All schools shall implement school-based decision making in accordance with this  
4 section and with the policy adopted by the local board pursuant to this section.  
5 Upon favorable vote of a majority of the faculty at the school and a majority of at  
6 least twenty-five (25) voting parents of students enrolled in the school, a school  
7 meeting its goal as determined by the Department of Education pursuant to KRS  
8 158.6455 may apply to the Kentucky Board of Education for exemption from the  
9 requirement to implement school-based decision making, and the state board shall  
10 grant the exemption. The voting by the parents on the matter of exemption from  
11 implementing school-based decision making shall be in an election conducted by  
12 the parent and teacher organization of the school or, if none exists, the largest  
13 organization of parents formed for this purpose. Notwithstanding the provisions of  
14 this section, a local school district shall not be required to implement school-based  
15 decision making if the local school district contains only one (1) school.

16 (6) The Department of Education shall provide professional development activities to  
17 assist schools in implementing school-based decision making. School council  
18 members elected for the first time shall complete a minimum of six (6) clock hours  
19 of training in the process of school-based decision making, no later than thirty (30)  
20 days after the beginning of the service year for which they are elected to serve.  
21 School council members who have served on a school council at least one (1) year  
22 shall complete a minimum of three (3) clock hours of training in the process of  
23 school-based decision making no later than one hundred twenty (120) days after the  
24 beginning of the service year for which they are elected to serve. Experienced  
25 members may participate in the training for new members to fulfill their training  
26 requirement. School council training required under this subsection shall be  
27 conducted by trainers endorsed by the Department of Education. By November 1 of

1 each year, the principal through the local superintendent shall forward to the  
2 Department of Education the names and addresses of each council member and  
3 verify that the required training has been completed. School council members  
4 elected to fill a vacancy shall complete the applicable training within thirty (30)  
5 days of their election.

6 (7) A school that chooses to have school-based decision making but would like to be  
7 exempt from the administrative structure set forth by this section may develop a  
8 model for implementing school-based decision making, including but not limited to  
9 a description of the membership, organization, duties, and responsibilities of a  
10 school council. The school shall submit the model through the local board of  
11 education to the commissioner of education and the Kentucky Board of Education,  
12 which shall have final authority for approval. The application for approval of the  
13 model shall show evidence that it has been developed by representatives of the  
14 parents, students, certified personnel, and the administrators of the school and that  
15 two-thirds (2/3) of the faculty have agreed to the model.

16 (8) The Kentucky Board of Education, upon recommendation of the commissioner of  
17 education, shall adopt by administrative regulation a formula by which school  
18 district funds shall be allocated to each school council. Included in the school  
19 council formula shall be an allocation for professional development that is at least  
20 sixty-five percent (65%) of the district's per pupil state allocation for professional  
21 development for each student in average daily attendance in the school. The school  
22 council shall plan professional development in compliance with requirements  
23 specified in KRS 156.095, except as provided in KRS 158.649. School councils of  
24 small schools shall be encouraged to work with other school councils to maximize  
25 professional development opportunities.

26 (9) (a) No board member, superintendent of schools, district employee, or member of  
27 a school council shall intentionally engage in a pattern of practice which is

1 detrimental to the successful implementation of or circumvents the intent of  
2 school-based decision making to allow the professional staff members of a  
3 school and parents to be involved in the decision making process in working  
4 toward meeting the educational goals established in KRS 158.645 and  
5 158.6451 or to make decisions in areas of policy assigned to a school council  
6 pursuant to paragraph (i) of subsection (2) of this section.

7 (b) An affected party who believes a violation of this subsection has occurred may  
8 file a written complaint with the Office of Education Accountability. The  
9 office shall investigate the complaint and resolve the conflict, if possible, or  
10 forward the matter to the Kentucky Board of Education.

11 (c) The Kentucky Board of Education shall conduct a hearing in accordance with  
12 KRS Chapter 13B for complaints referred by the Office of Education  
13 Accountability.

14 (d) If the state board determines a violation has occurred, the party shall be  
15 subject to reprimand. A second violation of this subsection may be grounds  
16 for removing a superintendent, a member of a school council, or school board  
17 member from office or grounds for dismissal of an employee for misconduct  
18 in office or willful neglect of duty.


19 (10) Notwithstanding subsections (1) to (9) of this section, a school's right to establish or  
20 maintain a school-based decision making council and the powers, duties, and  
21 authority granted to a school council may be rescinded or the school council's role  
22 may be advisory if the commissioner of education or the Kentucky Board of  
23 Education takes action under KRS 160.346.

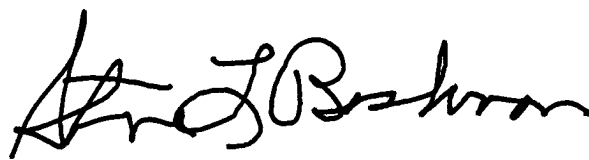
24 (11) Each school council of a school containing grades K-5 or any combination thereof,  
25 or if there is no school council, the principal, shall develop and implement a  
26 wellness policy that includes moderate to vigorous physical activity each day and  
27 encourages healthy choices among students. The policy may permit physical activity

1 to be considered part of the instructional day, not to exceed thirty (30) minutes per  
2 day, or one hundred and fifty (150) minutes per week. Each school council, or if  
3 there is no school council, the principal, shall adopt an assessment tool to determine  
4 each child's level of physical activity on an annual basis. The council or principal  
5 may utilize an existing assessment program. The Kentucky Department of  
6 Education shall make available a list of available resources to carry out the  
7 provisions of this subsection. The department shall report to the Legislative  
8 Research Commission no later than November 1 of each year on how the schools  
9 are providing physical activity under this subsection and on the types of physical  
10 activity being provided. The policy developed by the school council or principal  
11 shall comply with provisions required by federal law, state law, or local board  
12 policy.

  
Speaker-House of Representatives

  
President of Senate

Attest:   
Chief Clerk of House of Representatives

Approved   
Governor

Date 4-11-12